Lori Kammerer December 31, 2008

Thank you the opportunity to comment on the proposed HCO Proposed Regulations (Sections 9771 - 9779.9). On behalf of my client, MEDEX Healthcare, Inc. we would like to offer the following proposed additions.

_*"The following amended schedule of fees shall apply to fees initially billed by the Division on or after the effective date of these amendments, but not to any amounts that have been billed prior to the effective date or to any adjustments or modifications of fees that were initially billed prior to the effective date."
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Thank you for taking these comments into consideration when promulgating the HCO Regulations.

Todd McFarren December 31, 2008

These comments are provided on behalf of the California Applicants' Attorneys Association.

We appreciate the opportunity to comment on the proposed changes to the Health Care Organization (HCO) regulations. We understand that the HCO loan from the General Fund has been paid off in full and that other changes such as the expansion of data collection through the Workers' Compensation Information System require some changes to the HCO regulations. However, we feel that many of the proposed changes are not appropriate and should not be included in any formal regulatory action.

It is true that the medical provider market changed significantly following introduction of Medical Provider Networks. However, HCOs still have a significant impact on the market, both as independent entities and as "partners" with MPNs. According to the CHSWC 2008 Annual Report, there are currently 7 certified HCOs that act independently, with nearly 156,000 enrollees, and furthermore 704 MPNs utilize HCO networks for their physicians.

Consequently, it is important that regulatory oversight of these organizations remains strong. It must be recognized that the statutory requirements for HCOs regarding standards of service and reporting requirements were enacted because these organizations can direct the treatment of injured workers for 90 to 180 days. This fact, that the HCO controls the choice of physician for up to 6 months, remains a significant point even after introduction of MPNs since workers have the right to switch physicians within an MPN.

In fact, a participant at a recent workers' compensation seminar described a scheme under which some employers utilize an HCO for the sole purpose of controlling the choice of physician for 180 days, and at the completion of that period then transfer the worker into an MPN that utilizes the same HCO physician network.

We also note that there have been several proposals to amend the HCO statutes in recent years, including AB 871 (Keene) in the 2005-06 session. However, the Legislature determined that it was not appropriate to eliminate any of the reporting requirements that are required of HCOs in return for their 180 day period of control.

Consequently, we strongly urge the Division to carefully review the proposed changes to the reporting requirements for HCOs to assure that none of the current requirements are eliminated. Where the exact same data is reported as part of the WCIS, it may be appropriate to amend the HCO regulations to eliminate duplicative reporting. However, where the WCIS reporting provides either less comprehensive (since some WCIS reporting is on a sampling basis) or less timely data, we believe that the Division is required to continue the separate reporting of HCO data.

We also question the appropriateness of many of the proposed reductions in fees. The statute requires that fees be sufficient to cover the actual costs expended by the Division in processing the applications and various reports from HCOs. Based on that statutory requirement, we find it difficult to believe that the Division's costs in processing an initial application for a new HCO, for example, will be just $2,500. Whether another HCO ever applies for certification is immaterial; the fee is statutorily required to be sufficient to cover the Division's expenses. While we don't have any data showing actual Division costs in processing an HCO application, we find it difficult to believe that $2,500 will cover those costs. Likewise, we find it difficult to believe that collecting a maximum fee of only $500 (which means total fees collected will be only several thousand dollars) under the proposed amendment to section 9779.5 will provide sufficient fees to the Division to cover "all costs and expenses" of the Division in regulating HCOs.

Over the past several years injured workers have experienced significant problems in receiving appropriate and timely medical treatment. This is not just a problem for workers; it causes higher costs for employers because these workers cannot return to work as quickly, and it has directly impacted the Division's workload through an explosion of requests for expedited hearings (up 162 percent from 1997 to 2007 according to the CHSWC 2008 Annual Report). The HCO standards and reporting requirements were adopted by the Legislature as a means to assure that workers receive timely and appropriate care, and we believe the need for these requirements is just as strong today as it was in 1993 when HCOs were authorized. We urge that the Division keep this in mind when formal HCO regulation changes are proposed, and that the comprehensive framework for regulating the conduct of HCOs not be weakened by unnecessary and inappropriate changes designed simply for some questionable economic benefit that would accrue solely to the HCOs themselves.

If you have any questions regarding these comments, please contact our Legislative Advocate in Sacramento.